

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

KEVIN W. BAKER,)	
)	
Plaintiff,)	
)	
vs.)	Case No. CIV-11-0061-F
)	
LARRY RHODES and JIM MULLET,)	
)	
Defendants.)	

ORDER

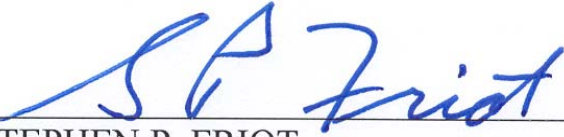
Plaintiff Kevin W. Baker, a state prisoner appearing *pro se* and *in forma pauperis* whose pleadings are liberally construed, has filed a civil rights action pursuant to 42 U.S.C. § 1983. The March 28, 2011 Report and Recommendation of Magistrate Judge Valerie K. Couch (doc. no. 9) recommends that the complaint be dismissed *sua sponte* for failure to state a claim upon which relief may be granted. The Report also recommends that the dismissal count as a “prior occasion” or strike pursuant to 28 U.S.C. §1915(g). The Report advised that any objection to the Report must be filed by April 18, 2011, and that failure to make timely objection to the Report waives the right to appellate review of factual and legal issues addressed in the Report. No objection to the Report has been filed, and no request for an extension of time within to file such an objection has been sought.¹

Having conducted its own review, and with there being no objection, the court finds that it agrees with the Report. It further finds that no purpose would be served by stating any further analysis here.

¹The Report was returned to the court as undeliverable to plaintiff.

Accordingly, the Report and Recommendation of Magistrate Judge Couch is **ACCEPTED, ADOPTED** and **AFFIRMED** in its entirety. This action is **DISMISSED** without prejudice pursuant to 28 U.S.C. § § 1915 and 1915A for failure to state a claim upon which relief may be granted. It is further ordered that this dismissal count as a “prior occasion” or strike pursuant to 28 U.S.C. § 1915(g).

Dated this 20th day of April, 2011.



STEPHEN P. FRIOT
UNITED STATES DISTRICT JUDGE

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